Supreme Court, U.S.
FILED
09-121 APR 27 2009
OFFICE OF THE CLERK

134

No.

IN THE

Supreme Court of the United States

Gene Hoy,
Petitioner

v.

MENTOR TOWNSHIP,
Respondent.

On Petition For Writ Of Certiorari
To The MICHIGAN SUPREME COURT

APPENDIX II

Gene Hoy
2586 Stitt Road,
In Propria Persona
P.O. Box 491
Mio, Michigan 48647
989-826-6025

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Order

Michigan Supreme Court
Lansing, Michigan

January 27, 2009
136941(21)

MENTOR TOWNSHIP,
Plaintiff-Appellee,

V

SC: 136941
COA: 283469
Oscoda CC: 06-004028-CE

Gene Hoy,
Defendant-Appellant,
And
FLASKA PROPERTIES, LLC,
Defendant.
_____/

On order of the Court, the motion for reconsideration of this Court's September 22, 2008 order is considered, and it is DENIED, because it does not appear that the order was entered erroneously.

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.
January 27, 2009 (signature)
Clerk

Order

Michigan Supreme Court
Lansing, Michigan

September 22, 2008
136941 & (15)(16)(17)

MENTOR TOWNSHIP,
Plaintiff-Appellee,

v

S.C.: 136941
COA: 283469
Oscoda CC: 06-004028-CE

Gene Hoy,
Defendant-Appellant,
And
FLASKA PROPERTIES, LLC,
Defendant.
_____/

On order of the Court, the motion for immediate consideration is GRANTED. The application for leave to appeal the July 3, 2008 order of the Court of Appeals is considered, and it is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court. The motion for stay and motion for miscellaneous relief are DENIED.

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

September 22, 2008

(signature)
Clerk

Court of Appeals, State of Michigan

ORDER

(names of judges)

Mentor Township v Flaska Properties LLC

Docket No. 283469

LC No. 06-004028-CE

The Court orders that the application for leave to appeal is DENIED for lack of merit in the grounds presented.

A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

Jul 3 2008 (signature)

Date Chief Clerk

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OSCODA

MENTOR TOWNSHIP,
a Michigan Municipal corporation,
Plaintiff,

V File No. 06-004028-CE

FLASKA PROPERTIES, LLC, JOHN WERNLY, CHARLES GALBRAITH, CLYDE MCINTIRE, JODY SHEPARD, GENE HOY, RONALD HOY, HAROLD SPROWL, and KATHLEEN SPROWL,
Defendants.
_____/

GERARD F. BRABANT, P.C.
By: Gerard F. Brabant P31123
Attorney for Plaintiff
241 Lake Street, P.O.Box 35
Roscommon, MI 48653
(989) 275-4365
_____/

ORDER

At a session of said Court
Held in the courthouse in Mio,
Oscoda County, State of Michigan,
On the 25th day of January, 2008.

PRESENT: HONORABLE RONALD M. BERGERON,
Circuit Court Judge

This matter having come before the Court on Defendant Gene Hoy's Motion to Set Aside the Order and the Court having reviewed the file and heard argument of Defendant and Plaintiff's Counsel, NOW THEREFORE,

IT IS ORDERED that Defendant Gene Hoy's motion is denied as frivolous.

IT IS FURTHER ORDERED that any subpoenas issued by Defendant for January 14, 2008, the hearing date of his motion are quashed, and

IT IS FURTHER ORDERED that Defendant Gene Hoy shall pay costs of Two Hundred Fifty and No/100 ($250.00) Dollars to the Law Office of Gerard F. Brabant, P.C. on or before February 13, 2008.

Date of order: 25th January 2008 (signature)

Honorable Ronald M. Bergeron
Circuit Court Judge

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF OSCODA

MENTOR TOWNSHIP,
A Michigan Municipal Corporation
Plaintiff,

V File No. 06-004028-CE

FLASKA PROPERTIES, LLC, JOHN WERNLY
CHARLES GALBRAITH, CLYDE MCINTIRE,
JODY SHEPARD, GENE HOY, RONALD HOY,
HAROLD SPROWL and KATHLEEN SPROWL
Defendants.

GERARD F. BRABANT, P.C.
By: Gerard F. Brabant P31123
Attorney for Plaintiff
241 Lake Street, P.O. Box 35
Roscommon, MI 48653
(989) 275-4365

ORDER

At a session of said Court held in the
Courthouse in the Village of Roscommon,
Roscommon County, State of Michigan,
On the 21st day of September, 2007.

PRESENT: HONORABLE RONALD M. BERGERON, Circuit Court Judge

This matter having come before the Court on Plaintiff's Motion to Enforce Judgment and the Court having heard argument from Plaintiff's counsel and certain Defendants and otherwise being fully informed in the premises.

IT IS ORDERED that Plaintiff's representatives, agents or contractors may enter upon the lands of Defendants Gene Hoy and Flaska Properties LLC on or after November 1, 2007 for the purpose of constructing connections to the Big Creek-Mentor Utility Authority's public sanitary sewer system.

IT IS FURTHER ORDERED AND ADJUDGED THAT Defendants Gene Hoy and Flaska Properties LLC may install an alternative waste system pursuant to MCL 333.127.57 or make satisfactory arrangements with Plaintiff for the connection to the sanitary sewer system prior to November 1, 2007.

[note: next lines hand-written in by judge]

R.M.B.

R.M.B. The objection that was filed is frivolous.

Date of order: 21 September 2007 (Signature)

Honorable Ronald
M. Bergeron
Circuit Court Judge

[Comment: Your Petitioner was not present.]

STATEMENT OF KENNETH M. DONOHUE
INSPECTOR GENERAL
DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT

BEFORE THE
COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON FEDERAL FINANCIAL
MANAGEMENT, GOVERNMENT INFORMATION,
AND INTERNATIONAL SECURITY
UNITED STATES SENATE

JUNE 29, 2006

Grantees have sufficient capacity to successfully participate in its programs. We found that CPD has management controls to minimize the risk that grantees and sub-grantees lacking capacity receive funding, however, unverified assumptions, incomplete and outdated guidance, and limited on-site monitoring undermine these controls. Therefore, management controls are not sufficient to provide reasonable assurance that grantees have the capacity to participate in CPD's programs.

I have seen the success of active monitoring efforts with "monitors" used by the Lower Manhattan Development Corporation in preventing waste and fraud in post-9/11 rebuilding activities and I have testified previously to this effective concept for use in disaster relief efforts in the Gulf States.

Common fraud Schemes in the CDBG Program:

A review of HUD OIG investigative activities show that there are, in general, five major fraudulent types of schemes affecting the CDBG program: making false claims for funds; soliciting/receiving bribes or kickbacks, procurement or contracting rigging; theft or embezzlement; and public corruption. The following cases are examples of each:

A. False Claims. A former employee embezzled nearly $160,000 from the East Saint Louis Community Development, a non-profit organization funded by CDBG. False vendor numbers and invoices were created to receive checks for services and materials never provided. The employee, utilizing her personal checking account, deposited and spent the fictitious vendor payments.

B. Soliciting Bribes/Kickbacks. Two former City of Rochester, New York rehabilitation specialists were sentenced for bribery. They had solicited "kickbacks" from contractors in exchange for City of Rochester rehabilitation contracts funded by CDBG.

In another case, the Mayor of Chicopee, Massachusetts, extorted campaign contributions from a developer with the promise he would intercede on the developer's behalf in a planned economic development project, while promising

the developer that his towing company would continue to have city contracts.

C. Procurement and Contracting. Two senior civic leaders of Springfield, Massachusetts, together with a real estate developer, and a builder were convicted for steering CDBG funds to renovate bars owned by the civic leaders.

In another case, a wrecking company admitted using another wrecking company as a "front company" to satisfy the HUD-funded St. Louis Community Development Authority's (CDA) regulations relating to minority business participation in the renovation of old St. Louis City Hospital. The wrecking company funneled payroll checks through the second one to make it appear as if a minority contractor was involved in the St. Louis City Hospital project, as certified to CDA. [end of pg. 7, start pg. 8]

D. Theft or Embezzlement. A New York Rabbi was charged in federal court with misappropriating $700,000 in federal grant money. The Rabbi, president and director of a jewish day school in Brooklyn, received an EDI grant from HUD. He misrepresented to HUD that the entire grant amount would be used to pay off a mortgage on a building to house educational and therapeutic programs for disabled preschool children. In addition to the $700,000 grant, the school received over $2.7 million in other EDI grants from HUD for FYs 1999, 2001, and 2002.

The criminal complaint stated that the Rabbi diverted funds to several individuals and entities that were not entitled to the funds. For example, $300,000 was diverted to a corporation in which the Rabbi's son-in-law was an officer and $80,000 was diverted to a variety of other rabbis and schools and organizations in Brooklyn. Another $78,000 in checks were made payable to the Rabbi.

Another example is where a federal employee fraudulently obtained lower Manhattan Development Corp (LMDC) grant funds after sub-letting and relocating from a LMDC qualified apartment. LMDC, a HUD-funded non-profit, was created to assist in the revitalization of lower Manhattan after the September 2001 terrorist attacks.

In a further example, the president and chief executive officer of Save Our Children Community Project (SOCC), a HUD-funded non-profit corporation, transferred federal grant money from SOCC to his personal account, wrote checks from his personal account to another individual who was the former Program Administrator for HIV Services in the Arkansas Department of Health, and fabricated invoices and other documents to hide the money transfers and personal checks to the other individual.

E. Public Corruption. Every year HUD OIG develops successful cases against elected officials who use their offices for personal or political gain.

The former Mayor and director of the East Cleveland, Ohio, Department of Community development (ECDCD), a HUD funded organization, was convicted for, among other things, soliciting and receiving bribes, kickbacks and secret payoffs through intermediaries using HUD funds as a "carrot" for contractor bribes.

The City of Springfield, Massachusetts, was especially hard hit by public corruption. In the past several years, a number of officials including the Public Housing Authority director, and the directors of at least two CDBG funded non-profit or public agencies, have been indicted and/or convicted of crimes that run the gamut, including conspiracy to defraud the U.S. Government, obstruction of justice, extortion, mail fraud, theft of honest services, false statements, perjury, criminal contempt, filing false federal income tax returns, and witness tampering.

CDBG Reform/Proposed Legislation:

We strongly endorse efforts to improve performance and accountability within the CDBG program and applaud proposed changes by the Assistant Secretary, but we are concerned
[end of pg. 8]

[Source: Testimony before Senate Comittees obtained by a federal representative's office]
[Purpose: To show this to be a NATIONWIDE PROBLEM.]

[stamped] RECEIVED
Apr 30 1993
DEPARTMENT OF COMMERCE
OFFICE OF FEDERAL GRANTS

Dick Pastula
Office of federal Grants
Michigan Department of Commerce
P.O. Box 30225, 5th Floor Law Building
Lansing, MI 48909

Dear Mr. Pastula:

Attached is the application for Mentor Township for funding under the Rebuild Michigan Initiative.

This application describes a joint project with Big Creek Township to construct a waste water collection system for the unincorporated village of Mio. The village has a critical problem with existing septic systems which threatens private wells and the AuSable River. Many of the existing septic systems are inadequate or have failed resulting in nitrate contamination being documented by the Michigan Department of Public Health and some commercial owners being forced to close or use expensive pump and haul operations.

The proposed project will assist residents of Mio and the township, who are primarily low and moderate income, by providing safe waste water collection and maintenance and expansion of employment opportunities.

We are hopeful you will view our proposal favorably.

Sincerely,
(signature)
Gary Wyckoff
Township Supervisor

[Source: Letter in USDA files.]
[Purpose: Show what the Mentor Township Supervisor is on record as claiming.]
[Comment: This should be read together with 18 USC 666 and maybe other sections of title 18 and some of the next pages here.]

BIG CREEK/MENTOR UTILITY AUTHORITY
P.O. BOX 99
MIO, MI 48647-0099
(989) 826-8750

May 13, 2008

Gene Hoy
2586 Stitt road
Mio, MI 48647

Q: Documents showing critical needs for the sewer system by 1993...and
A: Unknown

Q: Documents showing the low-income/low interest loans that are or were in effect for the connection.
A: Personal information.

Q: Documents supporting your determination that critical needs exist(ed). If none existed, please state so in writing.
A: Unknown

Q: Documents reporting instances of raw sewage entering a "structure" in the BC/M sewer district.
A: Unknown.

Q: Documents reporting instances of saw sewage entering houses in what became the BC/M sewer district PRIOR to the existence of the sewer system. If none exist, please state so in writing.

A: Unknown

Q: Copies of contracts between either Mentor Township and Gene Hoy or between your sewer authority and Gene Hoy where Gene Hoy agrees to connect to the BC/M sewer system. If none exist, please state so in writing.

A: None

Gary Wyckoff
BC/MUA
(signature)

[Source: "Response" to FOIA request from G. Wyckoff, Supervisor Mentor Township and Chairman of BC/M Utility Board]
[Purpose: To show a lack of contract for the "services," the cooperation in proving low-income loans' existence, and what Mr. Wyckoff knew by May 2008.]
[Comment: This is for real.]

[Part of Appendix D – a guide to users]

States are free to use this definition as interpretive guidance.

Special Assessment to Recover <u>Capital Costs</u>

Where CDBG funds are used to pay all or part of the cost of a public improvement, special assessments may only be used to recover capital costs as follows:

Restriction on levying a special assessment to recover CDBG funds:

Special assessments to recover the CDBG funds may be made *only* against properties **not** owned and occupied by L/M income persons. When assessments are levied against non-L/M income property owners, the proceeds are CDBG program income.

Special assessments to recover non-CDBG funds:

Special assessments to recover the non-CDBG funded cost of the public improvement may be made, provided that CDBG funds are used to pay *the special assessments on behalf of all properties owned and occupied by L/M income persons:* except that CDBG funds need not be used to pay the special assessments on behalf of properties owned and occupied by *moderate-income* persons if the grant recipient certifies that it does not have sufficient CDBG funds to pay the

assessments on behalf of all of the L/M income owner-occupants. Funds recovered through such special assessments are not CDBG program income. *Reference: Section 104(b)(5) of the HCDA*

[Source: HUD's information for users of its Community Development Block Grant Program.]
[Purpose: To show some of the rules the townships contracted to follow.]
[Comment: The certification could not be obtained but it can be proven to have existed since there are no figures for moderate income persons for any of the years in question. A better copy of this may be found on HUD's web site or in the original Appendix]

[Part of Page 7 of audit]

BIG CREEK – MENTOR UTILITY AUTHORITY
NOTES TO FINANCIAL STATEMENTS
FOR THE YEAR ENDED MARCH 31, 1995

NOTE 2 – CONSTRUCTION IN PROGRESS
(Continued)

Funding for these projects is detailed below:

	Sewer Project
Community Development Block Grant:	
Big Creek Township	$ 409,500
Mentor Township	400,000
Michigan Dept. of Public Health Grant [all went to "Water project" Which I can't fit into this format]	
U.S. Department of Agriculture – Farmers Home Administration:	
Loan	2,000,000
Grant	4,000,000
Project totals	$ 6,809,500

Future construction costs are as follows:

Total anticipated project costs	$ 6,809,500
Costs incurred as of March 31, 1995	465,913
Future costs	$ 6,343,587

NOTE 3 – FIXED ASSETS – PROPRIETARY FUND

A summary of fixed assets in the proprietary fund as of March 31, 1995 follows:

Land	$ 40,107
Construction in progress – Sewer	425,806
Construction in progress – Water	56,999
Total cost	$ 522,912

[Source; Audit of Big Creek/Mentor Sewer Authority for year ended March 31, 1995]
[Purpose: To show that both townships received CDBG funds subject to rules in HUD's Appendix D and to point out the 400,000 that Mentor Township received to connect low/moderate income people. It also shows others agree that this is a proprietary function.]
[Comment: This may not be a very good copy but it's the best I can do with this format. The water project is omitted since it would not fit but was not very relevant anyway.]

The regular monthly meeting of the Mentor Township Board of Trustees was called to order by Supervisor Wyckoff at 7:30pm at the Township Hall on Jan. 17, 1994.

All members of the Board was present.

Kann/Velten: I move we accept the minutes of the Dec. 20th meeting as presented. APPROVED.

Treasurer's report was received.

Fire Reports: #1. No incidences.
#2. 1 incidence, a structure fire 4 miles south of Mio, at the old Bea's Rest. Total loss.

Supervisor informed Board that Steiner's Museum Comm. Has requested a grant from us. It is a per capita rate of .10 or $109.80. Discussion regarding support of the museum led to consensus that we will not contribute any more to the museum.

Sherwood/Kann: I move we resolve to admend The Rebuild Michigan Grant to provide for the acquisition of property for the sewage treatment facility. The admended budget would be:

Property Acquisition	$32,500.00
Construction	357,500.00
Administration	10,000.00
Total	400,000.00

Wyckoff, Kann, Crane,
Sherwood, Velten: yeas
No nays. Resolution APPROVED

Sherwood/Kann: I move we again this year have an annual meeting, to be held at the Town Hall on March 26th at 10:00am. APPROVED.

There will be a Public Hearing on March 10th, at the Town Hall regarding water craft use of Mack Lake. The Hearing will begin at 7:00pm.

Crane/Velten: I move we adopt the proposed resolution regarding the establishment of Competitive Bidding for projects over$20,000
Crane, Kann, Sherwood, Velten, Wyckoff: yeas
No nays. Resolution ADOPTED (see Attached)

Velten/Kann: I move we pay the bills as present in vouchers #4418-4452.
Kann, Velten, Crane, Sherwood, Wyckoff, yes
None opposed. APPROVED

Meeting adjourned at 8:40 pm. Next meeting 02/21/1994

Lee Sherwood, Clerk

[Source: Mich. Dept. of Treasury]

[Purpose: To show where the 400,000 in CDBG grant money went and to show the adoption of an ordinance requiring sealed competitive bidding on contracts over $20,000 with the Township.]
[Comments: They really "admend" things there. Also, the 400,000 didn't connect anyone to their proprietary sewer system per their contract with HUD and none was returned – yet. This should be read along with the previous pages, the next few pages, and title 18 of the U.S. criminal code. There is a photocopy in the original Appendix.]

[Newspaper clipping: The Oscoda County Herald]

Townships

Continued from page 1a

In 1997 to stop construction of the sewer system.

There are currently 235 people hooked up to water, which was offered free in 1998. Three people chose not to hook up. Of 620 potential sewer customers, just 335 are current users of the system.

The Big Creek/Mentor Utility authority was formed in December 1992 for the purpose of constructing the sewage disposal and water supply system in the unincorporated village of Mio.

Need for the system was based on a strategic plan and feasibility study completed in 1992.

A group of Mio residents attempted to stop work when it filed suit on July 14, 1994. The suit alleged that the sewer authority misrepresented attitude surveys, among other items. The suit was dismissed Oct. 11, 1994, in 23rd circuit Court.

FHA contributed $4,365,000, or 71 percent of the total sewer cost. The Authority borrowed $2,135,000 on a 40 year note. Annual debt is $53,375 plus interest, and $140,000 to pay Earth Tech to maintain the system.

Bohlinger said the authority offered low-interest loans at the time the sewer was completed to defer the cost of the $1,500 hookup fee, and 76 low-income residents took advantage of the project. Low-interest loans for sewer connection are currently available through the Oscoda County Housing Commission.

Theresa Badgero has lived on Deyarmond Street in Mio for two years. She is opposed to mandatory hookups and said people were denied an opportunity to vote on the issue.

"I personally was not approached," she said. We were told you have to accept this. They've made it so you can't put in a new septic system, must hook up to a sewer because it's available. For a long time they said they would never make it mandatory. But what it all comes down to, is that they didn't give us the time for a referendum.

"And everybody's biggest complaint is that we were gypped out of a vote."

Legal notices published in the *Oscoda County Herald* alerted residents to a 45-day window in which they could call for a vote for or against the district. Bohlinger said no one did and the project went forward.

"FHA mandated that resolutions be in place by the authority to force mandatory hookups," Bohlinger said. "They didn't want to invest $4 million only to have a system that was non-functioning because people didn't want to pay for it."

Badgero said the situation is made more difficult because so many people are already part of the system.

"They've done it backwards without having an ordinance in place," she said. They put the cart before the horse. Now they're scrambling because a handful of people thought it was a good idea and are just now finding that the rest of the township doesn't agree with them.

"It's not feasible to close it down. We got it now whether we want it or not. And whether we can afford it or not."

Ed Knauf said the discovery of a lack of an ordinance to enforce the hookup is just the latest round of many mistakes by the townships. He said that if the township believes it had bad counsel, it should pursue its bond attorney to recoup damages to help pay for the system.

"We went to court and we fought because we felt they were wrong, and we lost." He said. "Now, it turns out we were right after all. But what are you going to do? The system is already in."

Booth said the people in the district should have to pay for the system because the township can't afford it.

"If we had to come up with that money, we probably could," he said. "But something would have to go. It might be road dusting or parks. But it has to come from somewhere. This is reality. Two years from now, the money will not be there and this (system) will become a long-term expense on our budget."

Bohlinger was a little more blunt. "The bottom line is that the township is responsible for payment of the debt." Bohlinger said. "They can either force the hookups for the people who live in the district, or they can pay for it out of the general fund. Either way, it has to be paid for."

The township boards will be scheduling special meetings to discuss the ordinance.

[Source: Local newspaper – The Oscoda County Herald, Sunday, June 24, 2001]

[Purpose(s):

To show news of low-interest (and therefore low-income) **loans** that **violate** their **HUD contract** for CDBG funds. *If there were 76 low-interest loans* then, how many are there now?

To show the difference in wills – the public as opposed to those of local government.

To show that there was a dispute about the authority misrepresenting attitude surveys.

To show that the general public was lied to about mandatory connections.

To show that the FmHA/USDA mandated that the resolutions (mandatory connections) be in place , effectively doing indirectly what they couldn't do directly. This also shows the willfulness of the local government officials by lying about forced connections (it was premeditated).

To show that Township Supervisor Booth claims that the townships couldn't afford the bill (so will dump it onto anyone).

To show that Bohlinger thinks that they might be able to pay but would rather extort money from the people than cut spending regardless of the harm.

And, to show that the people had no say in the matter, informed or not.]

[Comment: That 335 out of potential 620 "customers" were already connected does **NOT** prove that they were willing "customers."]

[Newspaper clipping – Sunday, Feb. 3, 2002]
Bottom line:
Residents not hooking into sewer system will pay fine
By Starr Golembieski
Staff Writer
MIO – Big Creek and Mentor townships sent a letter Feb. 1 to residents mandating hookup into the Mio sewer district in April.

According to the letter prepared by Big Creek Township, the township board passed a watersewer ordinance in September that requires all premises within 200 feet of the public sewer main to connect to the Mio sewer district.

Currently, the hookup fee is $1,900 per Residential Equivalency Unit, but on August 1 the fee will jump to $2,100.

The letter states residents can finance the hookup fee over a 30-year period, if they make a down payment.

Residents receiving the letter will have 90 days to connect to the system starting in April. Individuals who don't comply with the letter will pay a $100 fine for every day past the 90 days.

At a Big Creek Township meeting June 18, Big Creek/Mentor Utility Authority attorney Gerry Brabant of Roscommon said the resolution passed by the township boards prior to construction wasn't enough to force mandatory hookups to help make the system financially solvent.

Mentor Township Clerk lee Sherwood said the townships took Brabant's advice and crafted an ordinance which clarified the wording, making it

easier to bring litigation against those not hooking into the system.

If more Mio residents don't hook into the system, authority board member Charles Bohlinger said the townships are responsible for a debt of about $200,000.

"If they had to pay $200,000, it would be staggering." Bohlinger said. "We, the authority, told the people we wouldn't enforce hookup if the majority of people hooked up. But with about 50 percent of people hooked in we can't survive."

Big Creek Township Supervisor Randy Booth admitted in June that he was wrong for telling people they wouldn't have to connect. Because of that previous action, Booth said the Feb. 1 letter may cause some backlash.

"There is no real way to prepare for it." Booth said, "But we can't afford to subsidize the utility authority. We don't have enough people hooked in to pay."

[Source: The Oscoda County Herald, Sunday, Feb. 3, 2002]
[Purpose: To show the beginnings of the fee run ups.

To show the $100 per day threats (RICO?).

To show utility board member Charles Bohlinger's flip now claiming he had said they wouldn't force connections if most people hooked up, and that he doesn't want the townships to have to pay the $200,000.

To show that J. Randy Booth admits to promising people that they would not have to connect.]
[Comment: White man speak with forked tongue]

[Statement by Harold Sprowl]

February 27, 2007

I, Harold E. Sprowl do hereby swear and affirm, that if called upon can testify to the following facts:

1. The townships of Big Creek and Mentor, Oscoda County made application for a federal grant and loan to construct a sewer system in Mio to address "a critical problem with nitrate contamination which can be documented by the health department."

2. That there is no documentation of nitrate contamination at the District Health Department. This is documented by a response to questions by health department employee Doug Getty, a letter from Jessica Ratcliff from the state Water Quality Division and a personal inspection of the water testing results of DHD #2 by then county commissioner Laura Fairman and I.

3. The township officials knowingly misrepresented a contamination problem to obtain grant monies for a problem that has never existed.

4. Each township received four hundred and forty thousand dollars in grant money to assist low and moderate income residents with connection to the system. Officials circulated

applications for grant monies to only low income residents and never provided any support or funds to moderate income residents.

5. In 1994,f township officials were informed by Harry Bruner that because of the grant monies received, the townships could not charge tap-in connection fees to low or moderate income residents and that the terms and conditions of the grant loan would delete any mention of a $1,500.00 connection fee.

6. That the original loan/grant application was approved to include 512 businesses and residents which would generate 869 REUs. (residential equivalency units.

7. In 1997, officials ignored the connection fee amendment from 1994 and required connection fees for the low and moderate income residents.

8. That in 1997, the scope of the project was enlarged and now affected 621 business and residents. This is an increase of 109 residential properties.

9. Based on each residence generated 1 REU, the new total should have been 978 REUs but the new total of REUs was on 871. An increase of only 2 REUs.

10. Officials reduced the REUs to selected business

owners and passed the costs on to low and moderate residential property owners.

11. Officials responded to a FOIA request for the minutes which documented the total reduction of REUs for businesses that they could not provide the documentation because they do not have the documentation.

12. I have a copy of the minutes of one of the Utility Authority minutes that reflects the reduction of REUs for one such business.

13. Officials mislead residents when they asserted there would never be mandatory connection to the system, when in fact, all documents and the terms and conditions signed by the townships, required mandatory connection.

14. Big Creek Township Supervisor, Randy Booth phoned me recently and said he was gathering information regarding the use of grant funds and asked if I now made more then the states standard for medium income. This has no bearing on what I or other affected residents made in 1996-1997, the dates used to determine if a person was eligible for assistance.

15. Based on my information and belief, had officials offered assistance to low/moderate income residents in 1996-1997 approximately 25-30 percent of the residents would have

been eligible. (I have a copy of the assistance application sent to residents reflecting low income only)

16. That under Michigan Law, it is a felony for any person to obtain money under false pretenses.

The above is based on personal knowledge, information and belief, as well as copies of minutes and other documentation to attest to the accuracy of the allegations.

Respectfully,
(signature)

Harold E. Sprowl
P.O. Box 365
200 Fairland Ave.
Mio, MI 48647

[Source: Document created and signed by Mr. Sprowl.]
[Purpose: To show just what it says – fraud, problems with FOIA requests, giving the few business owners who didn't want to fix their drain-fields a break while dumping costs on low and moderate income people to pay for the thing.]
[Comment: Some of the numbers may be off a little but the message is right. The only significant difference is in no. 15 where the 25-30% approximation is 'way low! See the original Appendix for more.]

Order

Michigan Supreme Court
Lansing, Michigan

October 17, 2008

[names of
134437 judges]

KENT A. MCNEIL, FRANKLIN E. FISHER, ROGER GRIFFIN, SCOTT WAY, and JEFF LEGATO,
Plaintiffs-Appellants,

V

SC: 134437
COA: 272410
Charlevoix CC: 05-088120-CZ

CHARLEVOIX COUNTY and NORTHWEST MICHIGAN COMMUNITY HEALTH AGENCY,
Defendants-Appellees.

/

By order of May 2, 2008, the parties were directed to file supplemental briefs. On order of the Court, the supplemental briefs having been received, the application for leave to appeal the June 5, 2007 judgment of the Court of Appeals is again considered, and it is DISMISSED as to those plaintiffs who lack standing (Franklin E. Fisher, Kent A. McNeil, and Roger Griffin). The application is GRANTED as to the remaining parties. The parties shall consider: (1) whether the local health department or the county board of commissioners, the entity vested with final authorization of the regulation, MCL 333.2441(1), can create a right or a private cause of action against a private entity that alters Michigan's at-

will employment doctrine; (2) whether the right or private cause of action created by Clean Indoor air Regulation sec. 1001 falls within the exceptions set forth in *Suchodolski v Michigan Consolidated Gas Co*, 412 Mich 692 (1982), to Michigan's at-will employment doctrine, and (3) whether the exceptions to Michigan's employment at-will doctrine set forth isn *Suchodolski* on the basis of 'public policy" are consistent with this Court's decision in *Terrien v Zwit*, 467 Mich 56 (2002).

The Clerk of the Court is directed to place this case on the January 2009 session calendar for argument and submission. Appellants' brief and appendix must be filed no later than November 24, 2008, and appellees' brief and appendix, if appellees choose to submit an appendix, must be filed no later than December 18, 2008.

The Attorney General, the Michigan Townships Association, the Michigan Association of Counties & Michigan Association for Local Public Health, and Peter C. Venlet, in pro per, are invited to file briefs amicus curiae, to be filed no later than December 30, 2008. Other persons or groups interested in the determination of the issues presented in this case may move the Court for permission to file briefs amicus curiae, with such briefs to be filed no later than December 30, 2008.

MARKMAN, J., (concurring)

I concur in the order granting leave to appeal. However, I would direct the parties to also address

the issue whether, under relevant legal and constitutional principles, MCL 333.2441(1) properly delegates authority to Charlevoix County and the Northwest Michigan Community Health Agency to promulgate the regulations at issue in this case. See, e.g., *Taylor v Gate Pharmaceuticals*, 468 Mich 1, 10 n 9 (2003); *Blue Cross & Blue Shield of Michigan v Governor*, 422 Mich 1, 51 (1985).

CAVANAGH and KELLY, JJ., would deny leave to appeal.

WEAVER, J., would deny leave to appeal because she is not persuaded that the questions presented should be reviewed by this Court.

I, Corbin R. Davis, clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

October 17, 2008 (signature)
Clerk

[Source: Michigan Court's web site]
[Purpose: To show Steve Markman's comments on delegating authority in this case for comparison to the court's response in your Petitioner's case. This case got leave to appeal.]
[Conclusion: Since the arguments Markman requests here were developed in your Petitioner's case and passed by without any comment, your Petitioner and others do not believe the court even read the pleadings.]

DISTRICT HEALTH DEPARTMENT NO. 2

HOLD HARMLESS STATEMENT

A Hold Harmless Statement is required by the Board of Health as a condition for the issuance of an on-site sewage disposal permit for the Pirana Aerobic Treatment.
The owners of the property located at 115 Deyarmond., Big Creek Township, Oscoda county, MI, Tax ID [numbers inked out] agree to the following: "District Health Department #2 and its employees and its assignees shall be held harmless from any liability from any damage or claim implied or other wise associated with the issuance of the permit for the sewage disposal system for this property."

[victim's signature inked out] Property Owner
Date [inked out]

Signature:_____ DHD#2 EH Supervisor
Douglas Getty Date:_____

[Source: District Health Department]
[Purpose: Show another part of an unconscionable adhesion contract]
[Comment: Mr. Doug Getty didn't sign this for some reason. The victim here didn't volunteer into this but was forced into it since the monthly bills for the sewer amount to a bunch of signed checks they may fill out with no limit and enforce. Equity should never enforce this, but their circuit court will.]

District Health Department #2

Special construction requirements or additional comments for Permit #68-4694
Revised 6-29-05

1. Install a Pirana system in a new 1000 gallon septic tank.
2. Install the Pirana system according to manufacturer's recommendations. The installation shall be completed by a certified installer (Pirana).
3. Sealed and secured risers that extend above grade shall be used for all entry ports into the septic tank.
4. An inspection port shall be installed on two "infiltrator" runs. The inspection ports shall be set to final grade and have an easily removable cover.
5. Install an access port between the tank and header to collect effluent samples.
6. Homeowner shall receive an operation and maintenance manual as well as a 3-year warranty for the system from the Pirana company.
7. For the trench in the old drainfield area, excavate 48" to clean sand. Backfill with new clean coarse sand to 24" to 30 " below original grade. Both trenches shall be at the same level.
8. The infiltrators shall be the standard unit (34" x 75" x 12")

Additional Instructions:

1. Contact DHD#2 for a final inspection.
2. Follow the attached DHD#2 guidelines for the use of a Pirana Aerobic Treatment System.
3. Recommend homeowners contact their respective Township authority to notify them of their choice to use an alternative treatment system in lieu of connecting to sanitary sewer.
4. Homeowners have been given a copy of "General Outline for a Plan to Utilize an Alternative or innovative On-Site Sewage Disposal System."

Required Documents:
The following documents must be signed by the property owner and submitted to DHD#2 prior to final approval for the permitted sewage disposal system:

1. Signed variance (DHD#2) for the Pirana aerobic Treatment System.
2. Hold Harmless Statement
3. Deed Advisory shall be filed with the Oscoda County Register of Deeds. Documentation of the filing of the Deed Advisory shall be submitted to DHD#2.
4. Signed agreement to notify DHD#2 within 24 hours in the event of any type of system failure or malfunction that will result in the discharge of sewage effluent onto the surface of the ground or into any surface water or ditch **OR** if use of the Pirana system is discontinued **AND AND** agree to provide DHD#2 with a copy of the annual manufacturer's inspection report of the Pirana system, including water samples from a

certified laboratory or facility, for a period of time not less than five (5) years.

[Source: District Health Department]
[Purpose: Show the requirements/hoops to jump through if a "homeowner" wants to get out of the sewer connection.]
[Comments: The "**AND AND** agree to provide..." words are in the original but whether it's emphasis or what I don't know. The beginning of this thing claims to be "Special construction requirements..." but it's really Special cost requirements since all this costs money. Since there's no nitrate contamination problem to fix, this will probably work so far as that goes but it seems to "fix" homeowner's liberty from local government's point of view. Since the Pirana is the most expensive commercial alternative they could come up with, it isn't "innovative" in that sense, but it is innovative for making money and making the sewer appear cheaper. This is **not liberty** of contract. The people trying this also have to agree to waive their rights to a search warrant with probable cause, etc. This adhesion contract makes the citizen liable for much and the DHD#2 liable for nothing which is a fair definition of unconscionable. This "contract" offers no consideration to the homeowner – only the possibility that in the long run it will be cheaper than the certainty of overcharges by the sewer "authority." Note too that this option is not open to low-income residents since, by definition, they can't afford this.]

U.S. ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge Elimination System (NPDES)

[Since this is from a web site, the stuff to "click on" is not copied here]

Sanitary Sewer Overflows

OVERVIEW

Properly designed, operated, and maintained sanitary sewer systems are meant to collect and transport all of the sewage that flows into them to a publicly owned treatment works (POTW). However, occasional unintentional discharges of raw sewage from municipal sanitary sewers occur in almost every system. These types of discharges are called sanitary sewer overflows (SSOs). SSOs have a variety of causes, including but not limited to severe weather, improper system operation and maintenance, and vandalism. EPA estimates that there are at least 40,000 SSOs each year. The untreated sewage from these overflows can contaminate our waters, causing serious water quality problems. It can also back-up into basements, causing property damage and threatening public health.

WHAT CAN I FIND ON THIS WEB SITE? [Picture here]

NPDES Permit
Requirements for Municipal

Sanitary Sewer Collection
Systems and SSOs –
[This is only part of the sheet – but it's enough to make the point that their sewer is far from perfect because there are inherent problems with any sewer system. Given the admitted sparse density in the residential area and probable negative growth due to the rotten economy, the sewer provides only problems for residents. This is included to counter any conclusion that might try to claim that their sewer is better than private septics - like the Michigan Legislature has conclusively presumed. For a better copy, try: http://cfpub1.epa.gov/npdes/home.cfm?program_id=4, or check out the original Appendix. Note, too, that if there are fines and/or report writing for an SSO, then their 40,000 per year figure may be low. The BC/M Authority system doesn't have anti-backflow valves and has already overflowed. I don't know how many times because the information is "unknown." Chairman/Supervisor Wyckoff heard Sandy's complaints along with the rest of the board. Somehow the dispute went away.]

1885 W. Miller Rd.
Lewiston, MI. 48756
10-10-2008

To Whom it may concern

When sewers were put in Mio I was told that I would not have to hook up unless my septic went bad. I chose not to have the sewer.

Later I was told I had to hook up or else they would do it and charge me for it.

After going to court numerous times I guess I just gave up and sold my House as I could not afford it at the rate it was going to cost me.

I understood there was grant money to pay for hooking up the low income folks. I did not see it happen and the money can not be accounted for. Then the rest of the people have to pay more (which they don't have) to make it up. So they either sell out at low prices or go into debt to keep their home.

Respectfully
Lyle R. Ellis

[Source: Handwritten letter by Mr. Ellis]
[Purpose: Show more proof that never came up in their circuit court and show a little of the consequences.]
[Comments: Mr. Ellis tried to argue at a hearing but was cut off. There was no trial. He didn't hire an attorney. To do so would have cost as much as the sewer and would not have won anything. His (forced) selling price in a down market was made even lower by the fees for connecting to their unneeded sewer. The circuit court claimed

"we're in equity." This reads more like a bill of pains and penalties. This one was not in the original Appendix but other letters are, along with other material not included here. Your intake people are in possession of the original Appendix. Your Petitioner is in possession of contracts for some of the low-interest loans and documents proving no nitrate contamination in the area. Mr. Ellis does not possess a remedy.]

Bill of attainder: Legislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial. United States v. Brown, 381 U.S. 437, 448-49, 85 S. Ct. 1707, 1715, 14 L.Ed. 484, 492; United States v. Lovett, 328 U.S. 303, 315, 66 S.Ct. 1073, 1079, 90 L.Ed. 1252. An act is a "bill of attainder" when the punishment is death and a "**bill of pains and penalties**" when the punishment is less severe; both kinds of punishment fall within the scope of the constitutional prohibition. U.S.Const. Art I, Sec. 9, CL 3 (as to Congress); Art. I, Sec. 10 (as to state legislatures).

[Source: Black's Law Dictionary, Fifth Edition, pg. 150]
[Purpose: A reminder.]
[Comments: The emphasis above is added here. Since courts look at acts "taken as a whole," this seems to fit.]

Gary Wyckoff – Supervisor
Allan Vallad – Clerk
Nancy Crane – Treasurer
Paul Matte – Trustee
Robert Hoffman – Trustee

MENTOR TOWNSHIP
216 E. 10TH Street
Mio, MI 48647
(989) 826-5414

Gene Hoy
P.O. Box 491
Mio, MI 48647-0491

Mr. Hoy,

Per Court Order we will be connecting your properties (500 E. 5th St. and 201 Glen St. and 418 12th St.) to the sewer system the week of Sept. 1, 2008. The fees (connection fee and installation fee) if not paid for before Oct. 1, 2008 will go on you Winter Taxes.

Thank you,
(signature)
Mentor Township Board
Gary Wyckoff
Supervisor

[Source: Letter from township board]
[Purpose: To show they treat it as a tax.]
[Comment: This doesn't mention the amounts which have increased significantly – additional penalties for attempting to litigate this.]